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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/634,203	08/05/2003	Takahisa Kamataki	2107.68186	6789
7590	02/08/2007		EXAMINER	
Patrick G. Burns, Esq. GREER, BURNS & CRAIN, LTD. Suite 2500 300 South Wacker Dr. Chicago, IL 60606			SCHELL, JOSEPH O	
			ART UNIT	PAPER NUMBER
			2114	
SHORTENED STATUTORY PERIOD OF RESPONSE		MAIL DATE	DELIVERY MODE	
3 MONTHS		02/08/2007	PAPER	

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>
	10/634,203	KAMATAKI, TAKAHISA
	<b>Examiner</b>	<b>Art Unit</b>
	Joseph Schell	2114

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 22 November 2006.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-22 is/are pending in the application.
  - 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-19, 21 and 22 is/are rejected.
- 7) Claim(s) 20 is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.
 

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
    - a) All    b) Some \* c) None of:
      1. Certified copies of the priority documents have been received.
      2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
      3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

***Detailed Action***

1. Claims 1-22 have been examined.

Claim 20 has been objected to.

Claims 1-19 and 21-22 have been rejected.

***Response to Arguments***

2. Applicant's arguments with respect to claims 1 and 14 have been considered but are moot in view of the new ground(s) of rejection.

***Allowable Subject Matter***

3. Claims 4, 9 and 20 are objected to as containing allowable subject matter yet being dependent on rejected base claims.

As per claim 4, the examiner deems the novel limitation to be, within the entirety of the claim, that the second storage stores both the boot program and the second basic software.

As per claims 9 and 20, the examiner deems the novel limitation to be, within the entirety of the claim, the first software having a program to restore or update the second software or perform a device diagnosis.

***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 1-13 are rejected under 35 U.S.C. 103(a) for being indefinite.
5. Claim 1 lines 13-14 state "recognition of the operating at the time of starting of said boot program." This use of "the operating" lacks antecedent basis. Additionally, the limitation of "the time of starting" lacks antecedent basis.
6. Claim 1 line 17 states "makes the information processing device read-in data such as recovery data". This use of "such as" is apparently citing exemplary data and should either be removed (as unneeded exemplary, non-limiting language) or should be changed to "data including recovery data" or "data comprising recovery data" to make this limitation a requirement of the claim.
7. Claim 3 line 3 should probably read "or software for a device diagnosis." The current reading makes it very difficult to tell how the phrase "or for a device diagnosis" at the end of the claim is being used.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 1, 3, 5-6 and 11-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Von Ahnen (US Patent 6,400,717) in view of Wolff (US Patent 5,987,625).

9. As per claim 1, Von Ahnen ('717) discloses an information processing device connectable to a network (as shown in Figure 1, the invention pertains to an ATM network switch) including one or plural computers, comprising:

a first storage that stores first basic software to be executed by said information processing device in a case where an operating mode is a first operating mode (column 3 lines 29-31, the RAM contains application data);

a second storage that is provided separate from said first storage and stores second basic software to be executed by said information processing device in a case where the operating mode is a second operating mode (column 3 lines 19-21 and 24-27 the ROM stores data for a test mode); and

a processing unit that makes a boot program operate and also makes said first basic software or said second basic software operate (column 6 lines 28-30), said boot program making said information processing device recognize whether the operating

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mode is said first operating mode or said second operating mode, said processing unit making said first basic software or said second basic software operate based on the recognition of the operating at the time of starting of said boot program (column 6 lines 28-35),

    said first storage and said second storage being incorporated in said information processing device (as shown in Figure 2, the RAM and ROM are included).

Von Ahnen ('717) discloses the system wherein the ROM contains a self-test routine (column 5 lines 49-52) and that operating programs are accessible via the Ethernet connection (column 5 lines 54-55).

Von Ahnen ('717) does not explicitly disclose the system wherein said second basic software includes software that makes the information processing device read-in data such as recovery data via the network from an opposite device on the network based on the starting of said second basic software.

Wolff ('625) teaches a system for testing network bootable devices by downloading test software from a network (column 2 lines 53-55).

At the time of invention it would have been obvious to a person of ordinary skill in the art to modify the dual-storage booting system disclosed by Von Ahnen ('717) such that, instead of storing self-test routines on the ROM (Von Ahnen ('717) column 5 lines 54-

55), the self-test routine is loaded in from the network. This modification would have been obvious because the test routine does not occupy the limited memory space of the device (Wolff ('625) column 2 lines 43-49).

10. As per claim 3, Von Ahnen ('717) in view of Wolff ('625) discloses the information processing device of claim 1 wherein said second basic software includes software for restoration and/or update of said first basic software or a system developed in said first storage or for a device diagnosis (Von Ahnen ('717) column 7 lines 15-20, a the test mode causes the second processor to perform a device diagnosis).

11. As per claim 5, Von Ahnen ('717) in view of Wolff ('625) discloses the information processing device of claim 1 further comprising a mode selection part that selects said operating mode, wherein said first operating mode or said second operating mode is selected by said mode selection part (Von Ahnen ('717) column 6 lines 8-15, the PLA controls mode selection).

12. As per claim 6, Von Ahnen ('717) in view of Wolff ('625) discloses the information processing device of claim 1, wherein said boot program includes software that selects a said first basic software or said second basic software based on recognition of whether a selected operating mode is said first operating mode or a second operating mode (Von Ahnen ('717) column 6 lines 8-15).

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13. As per claim 11, Von Ahnen ('717) in view of Wolff ('625) discloses the information processing device of claim 5, wherein said mode selection part is a change-over switch that changes over said operating mode (Von Ahnen ('717) column 6 lines 34-35 a register controls mode selection).

14. As per claim 12, Von Ahnen ('717) in view of Wolff ('625) discloses the information processing device of claim 1, wherein said second basic software has diagnosis software for said first storage (Wolff ('625) column 4 lines 22-25, RAM is tested in addition to ROM and column 4 lines 40-44, software is tested), and makes recovery processing stop in a case where a failure is occurring in said first storage (Von Ahnen ('717) column 7 lines 17-20, test failure cases LEDs to signal an error or an error message to be generated).

15. As per claim 13, Von Ahnen ('717) in view of Wolff ('625) discloses the information processing device of claim 5 further comprising an indicating part that indicates the selected operating mode (Von Ahnen ('717) column 7 lines 10-11, the primary processor generates a signal indicating whether it is in test mode or system mode).

16. Claims 2 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Von Ahnen ('717) in view of Wolff ('625) and Wikipedia's IP Address.

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17. As per claim 2, Von Ahnen ('717) in view of Wolff ('625) discloses that downloads test software from the network (Wolff ('625) column 6 lines 3-6). Von Ahnen ('717) in view of Wolff ('625) does not expressly disclose the device wherein the second basic software includes software that makes the information processing device give an IP address in accordance with a requirement of a client via the network.

Wikipedia's IP Address teaches general information regarding and use of IP addresses. At the time of invention it would have been obvious to a person of ordinary skill in the art to modify the system disclosed by Von Ahnen ('717) in view of Wolff ('625) such that the second software requires the first software to use an IP address for network communication. This modification would have been obvious because the addresses are needed for host enumeration and routing on a network (Wikipedia's IP Addresses, second paragraph).

18. As per claim 17, this claim expresses the same limitations as claim 2 and is rejected under the same reasoning.

19. Claims 7-8, 14-16, 18-19 and 21-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Von Ahnen ('717) in view of Wolff ('625) and Donohue (US Patent 6,202,207).

20. As per claim 7, Von Ahnen ('717) in view of Wolff ('625) discloses the information processing device of claim 1, wherein said processing unit performs diagnosis of said first basic software (Wolff ('625) column 4 lines 40-44) by means of software offered from an opposite device on said network, under execution of said second basic software (Wolff ('625) column 2 lines 53-57).

Von Ahnen ('717) in view of Wolff ('625) does not expressly disclose the information processing device wherein said processing unit performs restoration or update of said first basic software.

Donohue ('207) discloses a system that automatically updates a computer program when a new fix is available (see abstract).

At the time of invention it would have been obvious to a person of ordinary skill in the art to modify the dual-boot mode device disclosed by Von Ahnen ('717) in view of Wolff ('625) such that the system is capable of automatically performing a software update. This modification would have been obvious because software is frequently updated with new versions to correct bugs (Donohue ('207) column 1 lines 21-25).

21. As per claim 8, Von Ahnen ('717) in view of Wolff ('625) discloses the information processing device of claim 1 wherein said second basic software includes a program

that performs diagnosis by means of software offered from an opposite device on said network (Wolff ('625) column 4 lines 40-44).

Von Ahnen ('717) in view of Wolff ('625) does not expressly disclose the information processing device wherein said processing unit performs restoration or update of said first basic software.

Donohue ('207) discloses a system that automatically updates a computer program when a new fix is available (see abstract).

At the time of invention it would have been obvious to a person of ordinary skill in the art to modify the dual-boot mode device disclosed by Von Ahnen ('717) in view of Wolff ('625) such that the system is capable of automatically performing a software update. This modification would have been obvious because software is frequently updated with new versions to correct bugs (Donohue ('207) column 1 lines 21-25).

22. As per claim 14, this claim recites the limitations found in claim 7 (and its parent claim 1) and is rejected on the same grounds as claim 7.

23. As per claim 15, Von Ahnen ('717) in view of Wolff ('625) and Donohue ('207) discloses the recovery method of the information processing device of claim 14, wherein said second basic software includes:

processing that specifies the opposite device for the information processing device from the computers on the network (Wolff ('625) column 2 lines 53-55, the test software is downloaded); and

processing that receives the offer of the software from the specified opposite device (Wolff ('625) column 2 lines 53-55) and performs the restoration or the update of said first basic software or the system developed in said first storage (Donohue ('207) column 1 lines 21-25).

24. As per claim 16, Von Ahnen ('717) in view of Wolff ('625) and Donohue ('207) discloses the recovery method of claim 14 or 15, wherein said second basic software has diagnosis software for said first storage (Wolff ('625) column 4 lines 40-44), and includes processing that makes processing of the restoration or the update of said first basic software stop in a case where a failure is occurring in said first storage (Von Ahnen ('717) column 7 lines 16-20).

25. As per claim 18, Von Ahnen ('717) in view of Wolff ('625) and Donohue ('207) discloses the recovery method of claim 14 or 15, wherein said boot program includes processing that selects said first basic software or said second basic software based on recognition of whether the selected operating mode is said first operating mode or said second operating mode (Von Ahnen ('717) column 6 lines 28-35).

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26. As per claim 19, this claim recites limitations found in claim 15 and is rejected on the same grounds as claim 15.

27. As per claim 21, Von Ahnen ('717) in view of Wolff ('625) and Donohue ('207) discloses the recovery method of claim 14 or 15, wherein said second basic software has diagnosis software for said first storage (Wolff ('625) column 4 lines 22-25 and 40-44), and includes processing that makes recovery processing stop in a case where a failure is occurring in said first storage (Von Ahnen ('717) column 7 lines 16-20).

28. As per claim 22, Von Ahnen ('717) in view of Wolff ('625) and Donohue ('207) discloses the recovery method of claim 14 or 15 further including indication processing that indicates the selected operating mode (Von Ahnen ('717) column 7 lines 10-11).

29. Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Von Ahnen ('717) in view of Wolff ('625) and Donohue ('207) and in further view of Wikipedia's Flash Memory and EEPROM.

Von Ahnen ('717) in view of Wolff ('625) and Donohue ('207) discloses the information processing device of claim 1. Von Ahnen ('717) in view of Wolff ('625) and Donohue ('207) does not expressly disclose the device wherein said second storage is a flash memory.

Wikipedia' Flash Memory teaches that Flash is a enhanced form of EEPROM.

Wikipedia's EEPROM teaches general EEPROM info.

At the time of invention it would have been obvious to a person of ordinary skill in the art to modify the system disclosed by Von Ahnen ('717) in view of Wolff ('625) and Donohue ('207) such that the second storage is a flash memory. This modification would have been obvious because an EEPROM retains its data when power is removed (see Wikipedia's EEPROM, first paragraph) and Flash Memory is an improved version of EEPROM that allows multiple memory locations to be written in one programming operation.

### ***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

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the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

***Contact Information***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joseph Schell whose telephone number is (571) 272-8186. The examiner can normally be reached on Monday through Friday 9AM-4:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Scott Baderman can be reached on (571) 272-3644. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

JS

  
SCOTT BADERMAN  
SUPERVISORY PATENT EXAMINER